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To: Microsoft ATR
Date: 11/16/01 4:53pm
Subject: Opinion on the US vs Microsoft Settlement

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I understand you are seeking feedback on the proposed Dept of Justice settlement with Microsoft at this address. I don't know what purpose that could have at this late date, but since you asked...

I believe the Department of Justice has made a mistake in settling this case. The points of law were clear -- Microsoft misused its monopoly position in the industry to illegally stifle competition and attempt to control the market. Further, they did this over a period of years in a repetitive way in spite of a previous court judgement that went against them for doing this very thing. Their strategy has been clear from the beginning ... they regard themselves as the controlling force in the market and will ruthlessly suppress or drive out of business anyone they choose in order to achieve their ends of continuous growth. Any market they focus on tends to suffer as competition withdraws in the face of the onslaught.

Further, the consumer is hurt by this tactic as competition (which controls prices in a free market) withers. Innovation is stifled because no true competitor is allowed to exist once Microsoft targets a market. The consumer is presented with an increasingly Microsoft-only solution when it comes to buying or configuring a personal computer. This is not a good thing.

The Department of Justice had Microsoft cornered, finally, after years of pursuit and the expenditure of large sums of money. The evidence had been gathered, legal prosecution had been pursued in the courts, and Microsoft weighed as guilty on multiple counts ... serious violations all. The judgements were upheld at each level of appeal. The Government had won. I was stunned when I heard that the decision had been made to drop the attempt to split Microsoft into two parts and instead drop back to a light slap on the wrist with a few minor economic sanctions and controls.

I believe this -- Microsoft absolutely must be separated into two companies. It is the only solution that will remove the threat from the computer world we now have. I have no problem with Microsoft as a company that creates and sells operating systems. I also have no difficulty with Microsoft as a company that sells the dominant desktop productivity products in the world. But the coalition of the two is a poison trap for the American economy -- because Microsoft uses their productivity products as the leverage to keep their customers in line and away from the competition in the operating system arena. Why doesn't Microsoft Office exist on the Linux desktop systems? It's because Microsoft knows it would undermine their sales of operating systems to big companies, some of whom would love to move off of Windows. So they carefully steer clear of offering Office on Linux and retain a stranglehold on desktop systems.

I am not a Linux fan, but I absolutely want such products to flourish in

the United States or else we will fail to make the progress we need to in the computer world, or worse -- other nations will take the lead we once firmly had in this industry and leave us behind with our doddering Windows systems as they move on to better and more efficient systems. Microsoft must not be allowed to be the single innovator left in this country because, like all large companies, they are neither agile enough nor creative enough once they reach that size to retain those traits.

I am also not a Microsoft hater. I do in fact love Excel, and I can tolerate Windows though it is not my favorite operating system. Visual Basic is a good product. Powerpoint is adequate, and though I don't particularly care for Word, I will grant that it works well enough for those that can master it. What I don't like is the fact that most of the products Microsoft makes are items constructed in such a way as to sell more and more of them ... and worse, they are constantly intertwined in such a way that you have to get all of them whether you want them or not. Microsoft candidly admits that their software licensing mechanisms are changing recently solely so they can extract more money from their customers, and not because there is any impression of value received for that money. Microsoft has lost their way in that regard, and in a free market they would be avoided by some, and fall to a 2nd or 3rd choice by others. But in today's computer world you have no choice -- you have to go with Microsoft because of their monopoly position.

I do not believe any of the settlement clauses which have been discussed as the fallback position of the US Government will have any effect. Microsoft has been down that road before and been shown to ignore such constraints when they are imposed. I do not believe it will be any different this time. They will bide their time, stay below the radar for a couple of years and then quietly continue their march to overwhelm anyone who seems to be a competitor. Having spent this effort uselessly twice already, I don't see the Government trying once again in 2006 to resurrect this dead horse, and at that point Microsoft will have their full victory and walk away laughing.

Only by having diversity and competition in the US computer industry can we hope to stay in our leadership role in this rapidly changing and evolving world. It is good to have multiple sources for innovation, and it is good to keep the marketeers out of the leadership role in such fast-moving industries. This will not happen with an intact Microsoft. You had the solution; you had them where you wanted them; and you had right on your side. You stayed your hand for the wrong reasons -- which I believe turned out to be political expediency because of the new administration, and changed priorities in the Department of Justice. But in doing this political turnabout you betrayed the American people, whose fate was entrusted to you by our Constitution. The legal system was the only lever which could have made a difference and changed the course of the future. I sincerely regret that you failed to have the

courage and the foresight not to see how urgent and how critical your role was.

My dwindling hope lies with the few States that appear willing to continue to push this case, but the chance of their achieving anything other than monetary concessions is impossibly remote. Only the Government could have taken the admittedly drastic step of dividing Microsoft in two. That option is now over, for all practical purposes.

I have watched the computer industry grow from the time I was a college student in the 60's and first fell in love with computers. I watched IBM's excesses in the 60's and 70's as their arrogance drove all before them, similar to Microsoft, and I watched as they later lost their stranglehold on this industry in the 80's as new technologies overcame their ability to adapt. And I watched Digital Equipment Company as they soared to the top of the industry in the 80's, losing their way as they failed to understand the critical importance of personal computers. And I saw the rise of Microsoft during the 80's and 90's, leading to the same type of arrogance IBM used to show 4 decades ago. The difference is this -- Microsoft has a stranglehold not only on American businesses but also on the American consumer. Their fingers reach deep into all levels of the world economy for individuals and companies and governments. IBM never had that reach. Microsoft is so entrenched in the way computing is done that inertia alone will keep them there for at least a decade even if they stumble badly in their direction. That is "forever" in the computer world, where 5 years is a generation. It is critical that their decisions be made in the face of competition, and not by a monopoly posture in an industry they believe they own.

Good luck with whatever you will do with this issue. I am disappointed and disillusioned that the Government chose to yield the winning hand as they did, and seems not to understand what they have done or what they have lost. I hope my point of view is more gloomy than necessary, and that events will work out for the best for America. However, I have built my career on being right about technical trends. If I had to bet on someone, I'd bet on me ... not on you.

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